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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010 - 323**

12 **MARY KATHRYN HARGROVE, RN**
13 **425 Glencrest Drive**
14 **Solana Beach, CA 92069**

A C C U S A T I O N

15 **Registered Nurse License No. 350380**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about September 30, 1982, the Board of Registered Nursing issued Registered
24 Nurse License Number 350380 to Mary Kathryn Hargrove, RN (Respondent). The Registered
25 Nurse License was in full force and effect at all times relevant to the charges brought herein and
26 will expire on April 30, 2010, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

". . . .

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

". . . .

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8 8. California Code of Regulations, title 16, section 1444, states:

9 "A conviction or act shall be considered to be substantially related to the qualifications,
10 functions or duties of a registered nurse if to a substantial degree it evidences the present or
11 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
12 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

13 "(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
14 subdivision (d) of Penal Code Section 11160.

15 "....

16 "(c) Theft, dishonesty, fraud, or deceit.

17 "...."

18 9. California Code of Regulations, title 16, section 1445, states:

19 "....

20 "(b) When considering the suspension or revocation of a license on the grounds that a
21 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
22 person and his/her eligibility for a license will consider the following criteria:

23 "(1) Nature and severity of the act(s) or offense(s).

24 "(2) Total criminal record.

25 "(3) The time that has elapsed since commission of the act(s) or offense(s).

26 "(4) Whether the licensee has complied with any terms of parole, probation, restitution or
27 any other sanctions lawfully imposed against the licensee.

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1 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
2 Penal Code.

3 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

4 **COST RECOVERY**

5 10. Section 125.3 of the Code provides, in pertinent part, that the
6 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
7 have committed a violation or violations of the licensing act to pay a sum not to exceed the
8 reasonable costs of the investigation and enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(February 16, 2001, Criminal Conviction –**
11 **Driving Under the Influence of Alcohol, Petty Theft on December 5, 2000)**

12 11. Respondent is subject to disciplinary action under Code sections 490 and 2761,
13 subdivision (f), in that on or about February 16, 2001, in the Superior Court of California, County
14 of San Diego, North County Division, Case No. CN122445, Respondent was convicted, on her
15 plea of guilty, of violating Vehicle Code section 23103 (Reckless Driving) and Penal Code
16 section 484-488 (Petty Theft), a misdemeanor. The circumstances of the crime are that on or
17 about December 5, 2000, Respondent was arrested for driving under the influence of alcohol and
18 for petty theft.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(November 14, 2001 - Conviction of a Crime - Petty Theft With Prior Conviction**
21 **on August 3, 2001)**

22 12. Respondent is subject to disciplinary action under Code sections 490 and 2761,
23 subdivision (f), in that on or about November 14, 2001, in the Superior Court of California,
24 County of San Diego, North County Division, Case No. CN132920, Respondent was convicted,
25 on her plea of guilty, of violating Penal Code section 666-484 (Petty Theft With a Prior
26 Conviction), a misdemeanor.

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1 a. The circumstances of the crime are that on or about August 30, 2001,
2 Respondent unlawfully stole, misappropriated and fraudulently took the property of a merchant.

3 b. As a result of the above conviction, Respondent was placed on three years
4 summary probation, ordered to serve one day in county jail, ordered to perform 100 hours of
5 community service by January 23, 2003, and ordered to pay \$200 in restitution and fines.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(September 15, 2004, Criminal Conviction - Vandalism on June 16, 2004)**

8 13. Respondent is subject to disciplinary action under Code sections 490 and 2761,
9 subdivision (f), in that on or about September 15, 2004, in the Superior Court of California,
10 County of San Diego, North County Division, Case No. CN181364, Respondent was convicted,
11 on her plea of guilty, of violating Penal Code section 594(a)(b)(1) (Vandalism Over \$400), a
12 misdemeanor.

13 a. The circumstances of the crime are that on or about June 16, 2004, Respondent
14 damaged or destroyed the property of another. Respondent was also charged with violating Penal
15 Code section 242 (Battery), however, this charge was dismissed pursuant to the plea bargain.

16 b. As a result of the above conviction, Respondent was placed on three years
17 summary probation, ordered to pay a \$100 fine, attend and complete an anger management class
18 concurrent with that ordered under Case No. CN181839 (see Fourth Second Cause for Discipline,
19 below), not use force or violence upon another, not have contact with the victim.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(September 15, 2004, Criminal Conviction - Battery on June 16, 2004)**

22 14. Respondent is subject to disciplinary action under Code sections 490 and 2761,
23 subdivision (f), in that on or about September 15, 2004, in the Superior Court of California,
24 County of San Diego, North County Division, Case No. CN181839, Respondent was convicted,
25 on her plea of guilty, of violating Penal Code section 242 (Battery), a misdemeanor.

26 a. The circumstances of the crime are that on or about June 16, 2004, Respondent
27 used force and violence upon the person of M.W.F..
28

1 b. As a result of the above conviction, Respondent was placed on three years
2 summary probation, ordered to pay a \$775 fine, attend and complete an anger management class
3 concurrent with Case No. CN181364 (see Third Cause for Discipline, above), not use force or
4 violence upon another, not have contact with the victim.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(February 15, 2005 - Criminal Conviction - Resisting an Officer on October 20, 2004)**

7 15. Respondent is subject to disciplinary action under Code sections 490 and 2761,
8 subdivision (f), in that on or about February 15, 2005, in the Superior Court of California, County
9 of San Diego, North County Division, Case No. CN186575, Respondent was convicted, on her
10 plea of guilty, of violating Penal Code section 148(A)(1) (Resisting an Officer), a misdemeanor.

11 a. The circumstances of the crime are that on or about October 20, 2004,
12 Respondent resisted a peace officer. Respondent was also charged with violating Penal Code
13 section 242 (Battery), however, this charge was dismissed pursuant to the plea bargain.

14 b. As a result of the above conviction, Respondent was denied probation and
15 ordered to serve 159 days in county jail, with 107 days credit for time served, and ordered to pay
16 a \$500 fine.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **(February 15, 2005 - Conviction of a Crime - Petty Theft With a Prior on September 27,**
19 **2004)**

20 16. Respondent is subject to disciplinary action under Code sections 490 and 2761,
21 subdivision (f), in that on or about February 15, 2005, in the Superior Court of California, County
22 of San Diego, North County Division, Case No. CN186389, Respondent was convicted, on her
23 plea of guilty, of violating Penal Code section 484-666 (Petty Theft With a Prior), a
24 misdemeanor.

25 a. The circumstances of the crime are that on or about September 27, 2004,
26 Respondent unlawfully stole, misappropriated and fraudulently took the property of another.
27 Respondent was also charged with violating Penal Code sections 459 (Burglary) and 242
28 (Battery), however, these charges were dismissed pursuant to a plea bargain.

1 b. As a result of the above conviction, Respondent was placed on three years
2 formal probation to expire on March 15, 2008, ordered to serve 169 days in county jail, with
3 credit for time served, and ordered to pay \$438 in fees and fines.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(April 14, 2005 - Conviction of a Crime - Driving Under the Influence of Alcohol and/or**
6 **Drugs with Prior DUI Within 10 Years on March 31, 2005)**

7 17. Respondent is subject to disciplinary action under Code sections 490 and 2761,
8 subdivision (f), in that on or about April 14, 2005, in the Superior Court of California, County of
9 San Diego, North County Division, Case No. CN192766, Respondent was convicted, on her plea
10 of guilty, of violating Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol
11 and/or Drugs With a Prior DUI Within Ten Years), a misdemeanor.

12 a. The circumstances of the crime are that on or about March 31, 2005,
13 Respondent was arrested for driving under the influence of alcohol. Respondent was also charged
14 with violating Vehicle Code section 23152(b) (Driving With Blood Alcohol of Over 0.08%),
15 Penal Code section 243(b) (Battery on a Peace Officer or Emergency Personnel), Penal Code
16 section 148 (Resisting a Peace Officer), and Penal Code section 242 (Battery), however, these
17 charges were dismissed pursuant to the plea bargain.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(October 1, 2009 – Conviction of a Crime – Driving Under the Influence of Alcohol with**
20 **Blood Alcohol Of 0.08% or Above on July 3, 2009)**

21 18. Respondent is subject to disciplinary action under Code sections 490 and 2761,
22 subdivision (f), in that on or about October 1, 2009, in the Superior Court of California, County of
23 San Diego, North County Division, Case No. CN64577, Respondent was convicted, on her plea
24 of guilty, of violating Vehicle Code section 23152(b) (Driving Under the Influence of Alcohol
25 with Blood Alcohol of 0.08% or Above), a misdemeanor. The circumstances are that on July 3,
26 2009, Respondent was arrested for driving a motor vehicle while under the influence of alcohol.

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1 **NINTH CAUSE FOR DISCIPLINE**

2 **(Use of Alcohol in a Manner Dangerous or Injurious to Self)**

3 19. Respondent is subject to disciplinary action under Code sections 2761, subdivision
4 (a), and 2762, subdivision (b), in that Respondent used alcohol to an extent or in a manner
5 dangerous or injurious to herself, as is more fully set forth in paragraphs 12, 18 and 19, above,
6 which are incorporated here by reference.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(Conviction of Alcohol Related Crime)**

9 20. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),
10 and 2762, subdivision (c), in that Respondent was convicted of a criminal offense involving the
11 consumption of alcohol, as is more fully set forth in paragraphs 12, 18 and 19, above, which are
12 incorporated here by reference.

13 **PRAYER**

14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License Number 350380, issued to Mary
17 Kathryn Hargrove, RN Mary Kathryn Hargrove, RN.

18 2. Ordering Mary Kathryn Hargrove, RN to pay the Board of Registered Nursing the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 1/12/10

23 *Louise R. Bailey*
24 LOUISE R. BAILEY, M.ED., RN
25 Interim Executive Officer
26 Board of Registered Nursing
27 Department of Consumer Affairs
28 State of California
Complainant

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